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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,670	07/21/2003	Oscar Stefanutti	67,022-006	5073

26096 7590 02/08/2007
CARLSON, GASKEY & OLDS, P.C.
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SUITE 350
BIRMINGHAM, MI 48009

EXAMINER

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
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3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/623,670

Applicant(s)

STEFANUTTI, ET AL.

Examiner

Robert J. Canfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 31-54 is/are pending in the application.
- 4a) Of the above claim(s) 1-23 and 31-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-29, 41-43, 49 is/are rejected.
- 7) ☒ Claim(s) 44-48 and 50-54 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This Office action is in response to the amendment filed 11/16/06. Claims 1-29 and 31-54 are pending with claims 1-23 and 31-40 withdrawn from consideration. Claim 30 has been canceled.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 49 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the removable block for forming the indentation is not related to any of the structure of the wall assembly.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 24-29, 42, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,440,785 to Denny et al.

Denny et al. provides a concrete wall assembly comprising vertical studs 20 having first and second panels 22 fastened thereto. Concrete 30 cavities are formed between the panels 22. Ports comprising window openings (Figure 2 and column 5, line 9) and door openings (Figure 1 and column 5, lines 1+) are

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provided. The figures show the port opening provided with port receiving openings along the top and bottom thereof. The sill and jamb of the window opening are shown with a rabbet or indentation for receiving a window frame. The port is open in a vertical direction. Concrete contacts a portion of a window frame as shown in figure 2.

6. Claims 24, 25, 27-29, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,974,751 to De Zen.

De Zen provides a concrete wall assembly comprising vertical studs 120 having first and second panels 11 fastened thereto. Concrete cavities are formed between the panels 11 (See figure 10). Ports comprising window openings 39 (Figure 7) and door openings 40 (Figure 7) are provided. The ports are open in the vertical direction..

7. Claims 24, 28, 29, 41 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,819,489 to McKinney.

McKinney provides expanded polystyrene or "foam" (column 4, line 20) panels 20 fastened to a frame of studs 10 forming concrete receiving cavities.

8. Claims 44-48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. Claim 49 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

10. Claims 50-54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

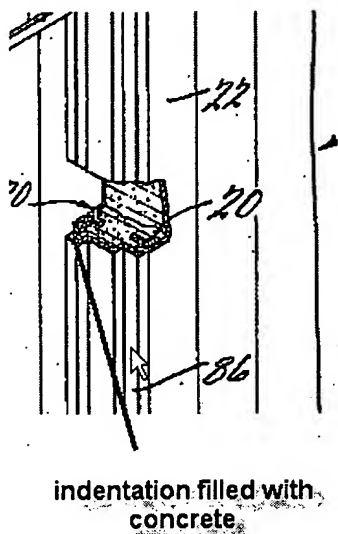
11. Applicant's arguments filed 11/16/06 have been fully considered but they are not persuasive.

Applicant's argument that Denny does not disclose an insulative panel is not persuasive. First, all building material have an inherent insulating value.

Second, as applicant notes, Denny does state that the panels may be plastic.

Plastics are well known in the building arts as having insulating properties.

Applicant's argument that Denny does not disclose a window opening comprising a concrete indentation is not found persuasive. This is shown in figure 2 as shown below. This also shows the concrete contacting a portion of a window frame (claim 43).



Applicant's arguments that De Zen fails to disclose an insulative panel are not found persuasive for the same reasons discussed above with respect to Denny. De Zen discloses polyvinyl chloride panels as noted by applicant. Polyvinyl chloride inherent meets the limitation of an "insulative panel".

It is noted that claim 26 was not rejected under DeZen in the previous Office action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

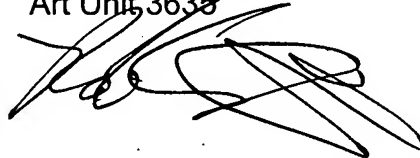
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert J Canfield
Primary Examiner
Art Unit 3635



02/03/07